

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

THE NEW YORK TIMES COMPANY,
CHARLIE SAVAGE, and SCOTT SHANE

Plaintiffs,

- against -

UNITED STATES DEPARTMENT OF
JUSTICE,

Defendant.

X

:

:

:

:

:

:

:

:

:

:

:

X

11 Civ. 9336 (CM)

ECF CASE

DECLARATION OF NABIHA SYED

NABIHA SYED, pursuant to 28 U.S.C. § 1746, declares as follows:

1. I am the First Amendment Fellow at The New York Times Company, the publisher of *The New York Times*, and an attorney for the Plaintiffs here (“NYT”). As such, I am fully familiar with the facts.

2. Annexed hereto as Exhibit A is a true and correct copy of a transcript from the CNN show “State of the Union with Candy Crowley,” broadcast on October 2, 2011, which contains comments made by Jane Harman, a former United States representative and a former ranking member of the House Intelligence Committee.

3. Annexed hereto as Exhibit B is a true and correct copy of “Political, Legal Experts Want Release of Justice Dept. Memo Supporting Killing of Anwar al-Awlaki”, the *Washington Post* (October 7, 2011), by Peter Finn, which reports comments made by Senator Dianne Feinstein, chairwoman of the Senate Select Committee on Intelligence.

4. Attached hereto as Exhibit C is a true and correct copy of a letter dated October 27, 2011 from the Department of Justice (“DOJ”) Office of Legal Counsel (“OLC”) to Scott Shane of *The New York Times*, denying his June 11, 2010 request (the “Shane Request”) under the Freedom of Information Act (“FOIA”).

5. Attached hereto as Exhibit D is a true and correct copy of a letter dated October 27, 2011 from DOJ OLC to Charlie Savage of *The New York Times*, denying his October 7, 2011 FOIA request (the “Savage Request”).

6. On November 4, 2011, NYT submitted to the DOJ Office of Information Policy (“OIP”) its appeal of the denial of the Shane Request. A true and correct copy of this appeal letter is attached hereto as Exhibit E.

7. On November 4, 2011, NYT also submitted to DOJ OIP its appeal of the denial of the Savage Request. A true and correct copy of this appeal letter is attached hereto as Exhibit F.

8. OIP did not respond to either of these appeals within twenty days.

9. A number of articles in *The New York Times*, the *Washington Post*, and elsewhere have reported on OLC legal memoranda about the targeted killing program.

10. These articles include:

- Peter Finn, “Secret U.S. Memo Sanctioned Killing of Aulahi,” *Washington Post* (September 30, 2011), a true and correct copy of which is attached hereto as Exhibit G;
- Charlie Savage, “Secret U.S. Memo Made Legal Case to Kill a Citizen,” *The New York Times* (October 8, 2011), a true and correct copy of which is attached hereto as Exhibit H;

- Daniel Klaidman, "Obama Team to Break Silence on al-Awlaki Killing," *Newsweek* (January 23, 2012), a true and correct copy of which is attached hereto as Exhibit I; and
- Charlie Savage, "A Not-Quite Confirmation of a Memo Approving Killing," *The New York Times* (March 8, 2012), a true and correct copy of which is attached hereto as Exhibit J.

11. Attached hereto as Exhibit K is a true and correct copy of a transcript from the Senate Appropriations Committee, Hearing on Fiscal Year 2013 Budget for the Justice Department, dated March 8, 2012, which contains comments from Patrick Leahy, a United States Senator and chairman of the Senate Judiciary Committee.

12. Attached hereto as Exhibit L is a true and correct copy of a transcript from the House Committee on the Judiciary, Hearing on Justice Department Oversight, dated June 7, 2012, which contains comments from Jerrold Nadler, a United States Congressman and member of the House Judiciary Committee.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: New York, NY
July 18, 2012



Nabiha Syed